



## RESOLUTION

INITIATING AMENDMENTS TO THE REVISED CHARTER OF THE CITY AND COUNTY OF HONOLULU 1973, AS AMENDED, RELATING TO THE CREATION OF A PUBLIC TRANSIT AUTHORITY.

WHEREAS, the counties were authorized under Act 247, Session Laws of Hawaii 2005, to establish a one-half percent excise tax surcharge to generate revenues that are to be used to fund the operating and capital costs of a new public transportation system; and

WHEREAS, on August 10, 2005, the council established the tax surcharge for the City and County of Honolulu by enacting Ordinance 05-027, which tax would begin on January 1, 2007 and be repealed on December 31, 2022; and

WHEREAS, the council has, in enacting Ordinance 07-001 and adopting Resolution 07-039, FD1, selected the transportation mode for the city's locally preferred alternative and its minimum operable segment, respectively; and

WHEREAS, the council believes in the necessity of creating a semi-autonomous agency in the city to focus solely on the planning, development, operation, and maintenance of the public transportation system that is the locally preferred alternative and funded by the tax surcharge; and

WHEREAS, the council further believes that such an agency would ensure that the city's new public transportation system is planned, developed, and operated with transparency and accountability to Oahu's residents; now, therefore,

BE IT RESOLVED by the Council of the City and County of Honolulu:

1. That it propose and it is hereby proposed that the following question be placed on the 2008 general election ballot:

"Shall the Revised City Charter be amended to create a semi-autonomous public transit authority to plan, develop, operate, and maintain the new mass transit system for the City and County of Honolulu?"

2. That it propose and it is hereby proposed that the Revised Charter of the City and County of Honolulu 1973, as amended, be amended by adding a new article to be appropriately designated and to read as follows:



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### "ARTICLE \_\_\_\_ PUBLIC TRANSIT AUTHORITY

**Section \_\_\_\_-101. Organization** – There shall be a department of public transit, to be known as the “public transit authority,” consisting of a board of directors, executive director, and necessary staff.

**Section \_\_\_\_-102. Definitions** – For the purposes of this article:

"Authority" means the public transit authority.

"Board" means the board of directors of the public transit authority.

"Executive director" means the executive director of the public transit authority.

"Mass transit system" means the public transportation system developed utilizing the county surcharge on state tax authorized in HRS Section 46-16.8.

"Public agency" means any office, department, board, commission, bureau, division, public corporation agency, or instrumentality of the federal, state or county government.

**Section \_\_\_\_-103. Powers, Duties, and Functions** –

1. The public transit authority shall have full and complete authority to develop, operate and maintain the city mass transit system.

2. To perform its duties and functions, the public transit authority shall have the following general powers:

(a) To make contracts necessary and convenient to the execution and performance of its powers, duties and functions.

(b) To acquire by eminent domain, purchase, lease or otherwise, in the name of the city, all real property or any interest therein necessary for the construction, maintenance, repair, extension or operation of the mass transit system of the city. The council shall take no action to acquire real property or any interest therein for the authority without the written approval of the board.



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(c) To recommend to the council the sale, exchange or transfer of real property or any interest therein which is under the control of the authority. The council shall take no action to dispose of such property without the written approval of the authority, and all proceeds from the disposition shall be deposited into funds of the authority or mass transit system.

(d) To direct the planning, design, and construction of the mass transit system and operate and maintain the system thereafter.

(e) To establish all fares, fees, taxes, and charges for the mass transit system.

(f) To maintain proper accounts in such manner as to show the true and complete financial status of the authority and the results of management and operation thereof.

(g) To prepare annual operating and capital budgets for the mass transit system and the authority.

(h) To make and alter policies for its organization and internal administration.

(i) To create or abolish positions within the authority. A report of the creation or abolishment of positions shall be made to the council.

(j) To make temporary transfers or positions between subdivisions of the authority.

(k) To adopt rules in accordance with state law, when necessary, to effectuate its functions and duties.

(l) To enter into agreements with any public agency or private entity as it deems proper, including agreements for the joint use or operation of transit facilities with agencies of the city.

3. In addition to the general powers under subsection 2, other specific powers may be conferred by ordinance upon the authority, so long as the powers are consistent with this article of the charter.

4. The board shall:



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(a) Have the authority to issue revenue bonds under the name of "public transit authority" in accordance with HRS Chapter 49, subject to council approval.

(b) Review, modify as necessary, and adopt annual operating and capital budgets submitted by the executive director of the authority.

(c) Appoint and may remove an executive director, who shall be the chief executive officer of the public transit authority. The qualifications, powers, duties, functions, and compensation of the executive director shall be established by the board.

(d) Evaluate the performance of the executive director at least annually. The report of the evaluation shall be filed with the mayor, the council, and the city clerk as a public document.

### **Section \_\_\_\_-104. Board of Directors –**

1. The board shall consist of thirteen members who shall serve for staggered terms of five years and serve until their successors have been appointed. Five members shall be appointed by the council, five appointed by the mayor, one appointed by the speaker of the house of representatives, one by the president of the senate of the Hawaii state legislature, and one by the governor.

The initial appointments shall be as follows: Three members, one appointed by the council, one appointed by the mayor, and one appointed by the governor, shall each serve for five years. Three members, one appointed by the council, one appointed by the mayor, and one appointed by the president of the senate, shall each serve for four years. Two members, one appointed by the council and one appointed by the mayor, shall each serve for three years. Three members, one appointed by the council, one appointed by the mayor, and one appointed by the speaker of the house of representatives, shall each serve two years. Two members, one appointed by the council and one appointed by the mayor, shall serve for one year. The qualifications of the members shall be established by ordinance.

2. The board shall be the policy making body of the authority. The board shall be responsible for establishing policies for the development,



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operation, and maintenance of the public transit system. The board shall perform other duties and functions assigned to the authority by ordinance.

### **Section \_\_\_\_-105. Rates, Revenues and Appropriations –**

The board shall fix and adjust reasonable rates and charges for mass transit services so that the revenues derived therefrom, in conjunction with revenues received from the general excise and use tax surcharge, from the federal government, and from the revenue-generating properties of the authority, shall be sufficient or as nearly sufficient as possible, to support the mass transit system and the authority. Should the authority determine that its anticipated revenues are insufficient to meet the expenses of the authority, it may submit an appropriation request to the council through the office of the mayor in such form and at such time as required of other city departments. The office of the mayor shall submit the appropriation request to the council and shall not alter or amend the request. The appropriation request shall be subject to the approval of the council.

### **Section \_\_\_\_-106. Public Hearings –**

The board shall hold public hearings prior to fixing and adjusting rates and adopting the budget.

### **Section \_\_\_\_-107. Receipt and Disbursement of Funds –**

The authority shall make its own collections, but all receipts shall be paid daily into the city treasury and maintained in a fund separate and apart from any other funds of the city.

All moneys expended by the department shall be disbursed with the written approval of the authority according to the procedures prescribed by the director of budget and fiscal services.

### **Section \_\_\_\_-108. Bond Sales –**

The director of budget and fiscal services, when so directed by the board, shall sell such revenue bonds as may be authorized by the board for the acquisition, construction replacement, extension or completion of mass transit systems in accordance with the procedures prescribed by law for such sales. The proceeds from such sales shall be kept by the director of budget and fiscal



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services in a separate fund to be used only for the purposes for which the bonds were sold.

### **Section \_\_\_\_-109. Personnel; Purchasing –**

1. Subject to the availability of appropriations and the creation of positions by and authorization from the board, the executive director may hire personnel necessary to perform the duties and functions of the public transit authority.
2. The authority shall be subject to the civil service provisions of this charter.
3. The authority shall be subject to the centralized purchasing and disposal of personal property provisions of this charter.

### **Section \_\_\_\_-110. Audits –**

1. The accounts and financial status of the authority shall be examined annually by a certified public accountant whose services shall be contracted for by the board and whose fees shall be paid as an expense of the authority. The result of such examination shall be reported to the board, the council and the mayor.
2. The authority shall come within the purview of the performance audit conducted by the managing director and such audits as may be required by the council or conducted by the city auditor.

### **Section \_\_\_\_-111. Legal Counsel –**

The corporation counsel of the city shall be the legal adviser of the public transit authority and shall institute and defend, as the board may require, any and all actions involving matters under the jurisdiction of the authority. The corporation counsel may, with the prior approval of the board, compromise, settle or dismiss any claim or litigation, for or against the authority.

The compensation for such legal work shall be as agreed upon by the board and shall be paid from the revenues of the authority.

The authority may employ an attorney to act as its legal adviser and to represent the authority in any litigation to which the authority is a party.



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### Section \_\_\_\_-112. Service of Process; Claims –

The authority may sue and be sued under the name of the "Public Transit Authority, City and County of Honolulu." Service of process in all matters affecting the authority or any property under its jurisdiction may be made by service upon any member of the board or on the executive director. Any action commenced or prosecuted for the recovery of damages for any injury to persons or property by reason of negligence of the board or of any agents or employees of the authority, shall be commenced and prosecuted against the authority. No action shall be maintained for the recovery of damages unless a written statement verified by oath of claimant, setting forth the nature and items of the claim and the time and place where the alleged injury occurred, has been filed with the authority within six months after the date of sustaining the injury.

### Section \_\_\_\_-113. Applicability of Charter Provisions –

Except as otherwise provided, no provisions of this charter, other than those set forth in this article of the charter, shall be applicable to the authority.

### Section \_\_\_\_-114. Operational Date –

The public transit authority shall become operational six months from the effective date of this charter amendment."

3. That it propose and it is proposed that Section 6-1703 of the Revised Charter of the City and County of Honolulu 1973, as amended, is amended to read as follows:

#### "Section 6-1703. Powers, Duties and Functions --

The director of transportation services shall:

(a) Plan, operate and maintain transportation[, including transit,] systems, except the mass transit system as defined in Section \_\_\_\_-102, to meet public transportation needs, in accordance with the general plan and development plans, and advise on the design and construction thereof.

(b) Locate, select, install and maintain traffic control facilities and devices.



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- (c) Provide educational programs to promote traffic safety.
  - (d) Promulgate rules and regulations pursuant to standards established by law."
- 4. That it propose and it is proposed that Article XVI of the Revised Charter of the City and County of Honolulu 1973, as amended, be amended by adding a new section to read as follows:  
  

**"Section 16- . Transition Provision Concerning the Civil Service  
Officers and Employees of the Public Transit Division of  
the Department of Transportation Services.**

  - 1. All civil service officers and employees holding permanent appointments to positions in the public transit division and all other employees and officers in the department of transportation services whose duties relate to the mass transit system as defined in Section -102 of this charter on the date established in Section -114 on which the public transit authority becomes operational (hereinafter "operations date") shall be transferred to the authority. The civil service officers and employees subject to this section shall suffer no loss of vacation allowance, sick leave, service credits, retirement benefits, or other rights and privileges because of the charter amendments of this resolution. Nothing in this section, however, shall be construed as preventing future changes in their status pursuant to the civil service provisions of this charter.
  - 2. All lawful obligations and contracts that relate to the mass transit system as defined in Section -102 of this charter shall be transferred and assumed by the public transit authority on the operations date.
  - 3. All records, property, and equipment that relate to the mass transit system as defined in Section -102 of this charter shall be transferred to and assumed by the public transit authority on the operations date."
- 5. Charter material to be repealed is bracketed. New charter material is underscored. When revising, compiling, or printing these charter provisions for inclusion in the Revised Charter of the City and County of Honolulu 1973, as amended, the Revisor of the Charter need not include the brackets, the bracketed material, or the underscoring.
- 6. That the city clerk be and is hereby directed:





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- A. To prepare the necessary ballots with the question contained in this Resolution and with spaces for "yes" and "no" votes on the question for presentation to the electors of the 2008 general election. The city clerk may make technical and non-substantive changes to the form of the question presented in order to conform it to the form of other charter amendment questions presented to the electors at the same election; and
- B. To publish the above-proposed charter amendments at length in a daily newspaper of general circulation in the City and County of Honolulu at least 45 days prior to its submission to the electors at the 2008 general election.



**CITY COUNCIL**  
CITY AND COUNTY OF HONOLULU  
HONOLULU, HAWAII

No. 07-90

**RESOLUTION**

7. That upon approval of the charter amendment question posed in this Resolution by a majority of electors voting thereon, as duly certified, the charter amendment proposed in this Resolution shall take effect.

INTRODUCED BY:

*[Handwritten signature]*

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DATE OF INTRODUCTION:

MAR 16 2007

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Honolulu, Hawaii

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Councilmembers

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

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MUFU HANNEMANN, Mayor  
City and County of Honolulu